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**IN THE
COURT OF APPEALS OF INDIANA**

BRUCE LAMSON,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 78A01-0610-CR-455

APPEAL FROM THE SWITZERLAND SUPERIOR COURT
The Honorable John D. Mitchell, Judge
Cause No. 78D01-0507-FA-303

June 4, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

KIRSCH, Judge

Bruce Lamson pled guilty to child molestation,¹ as a Class B felony, pursuant to an open plea agreement. He appeals his sentence contending that the trial court erred in sentencing him to the advisory sentence of ten years where it found no aggravators and substantial mitigators, that his sentence is inappropriate, and that the trial court erred in restricting his travel as a condition of his probation.

We affirm.

Facts and Procedural History

Lamson pled guilty to molesting his nephew J.M., a child under the age of fourteen years. He admitted that over a period of several months he would place J.M.'s penis in his mouth and suck on it. He further admitted to the arresting officer that during these encounters J.M. "didn't like it."

The trial court found no aggravating circumstances and found the following mitigating ones: Lamson had no criminal history; he was likely to respond affirmatively to probation or short term imprisonment; and he pled guilty and thereby accepted responsibility for his crime and saving the taxpayers money. Noting that it was prevented by statute from suspending less than the minimum sentence, the trial court sentenced Lamson to ten years with six years executed and four years suspended to probation. As a condition of Lamson's probation, the court ordered that he was not to travel alone after 10:00 p.m. without the permission of his probation officer.

Discussion

¹ Ind. Code §35-42-4-3.

I. Sentencing²

Lamson contends that the trial court erred in sentencing him to the presumptive sentence of ten years where it found several mitigating circumstances and no aggravating ones and that as a result his sentence is inappropriate. We disagree.

The determination of mitigating circumstances rests with the sound discretion of the trial court. *Weaver v. State*, 845 N.E.2d 1066, 1073 (Ind. Ct. App. 2005). It is also within the trial court's discretion to determine what weight shall be accorded to the mitigating circumstances which it identifies. *Kelly v. State*, 719 N.E.2d 391, 395 (Ind. 1999).

Of the four mitigating factors found by the court, two related to Lamson's guilty plea. A guilty plea is not automatically a significant mitigating factor. *Mull v. State*, 770 N.E.2d 308, 314 (Ind. 2002). A defendant who has received a benefit for his guilty plea may be entitled to little or no weight for his plea. *Banks v. State*, 841 N.E.2d 654, 658-59 (Ind. Ct. App. 2006). Here, Lamson received substantial benefit from his guilty plea: the count to which he pled guilty was reduced from a Class A felony to a Class B felony and a Class D felony was dismissed.

As to the lack of criminal history, the crime to which Lamson pled guilty involved multiple acts over several months. This fact negates Lamson's claim that he is entitled to sentence mitigation.

Finally, the trial court found as a mitigator that Lamson was deemed likely to respond

² Lamson's crime was committed between April 1 and October 31, 2004 before the Indiana general Assembly amended Ind. Code § 35-38-1-7.1 establishing an advisory sentencing scheme and providing that the trial court may impose any sentence authorized by statute "regardless of the presence or absence of aggravating or mitigating circumstances."

affirmatively to short term imprisonment and probation. Lamson's sentence reflects this mitigator. First, the trial court imposed the minimum executed sentence for Lamson's crime. *See* Ind. Code § 35-50-2-5. It then imposed a term of probation. The trial court did not abuse its discretion in sentencing Lamson.

As to Lamson's claim that his sentence is inappropriate in light of the nature of the offense and the character of the offender, we decline to exercise our authority to revise the sentence. Here, Lamson sexually abused his fourteen-year-old nephew over a period of several months. He received the minimum executed sentence which the court could impose. It then imposed a period of probation. Lamson has failed to show that either is inappropriate.

II. Condition of Probation

Lamson also contends that the trial court erred when it imposed as a condition of his probation that he not travel alone after 10:00 p.m. without the permission of his probation officer.

A trial court is granted broad discretion in establishing the conditions of probation. *Johnson v. State*, 659 N.E.2d 194, 198 (Ind. Ct. App. 1995). The only limitation on that discretion is that the conditions imposed must have a reasonable relationship to the treatment of the convicted and the protection of the general public. *McCloud v. State*, 452 N.E.2d 1053, 1056 (Ind. Ct. App. 1983), *reh'g denied*, 456 N.E.2d 751. Here, Lamson admitted taking the victim at night to a place where random sexual encounters occur. The challenged condition of probation imposed by the trial court is reasonably related to preventing such behavior. The trial court did not abuse its discretion in imposing the condition.

Affirmed.

DARDEN, J., and MATHIAS, J., concur.